

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

REC SOFTWARE USA, INC.;)	
)	
Plaintiff,)	No. 2:11-cv-00554-JLR
)	
v.)	STIPULATED MOTION TO DISMISS
)	CERTAIN CLAIMS AND
BAMBOO SOLUTIONS CORPORATION;)	COUNTERCLAIMS
MICROSOFT CORPORATION; SAP)	
AMERICA, INC.; SAP, AG;)	NOTE ON MOTION CALENDAR:
)	APRIL 23, 2012
Defendants.)	

Plaintiff REC Software USA, Inc., and defendant Microsoft Corp., by and through undersigned counsel, hereby stipulate and agree to dismiss certain claims, and corresponding counterclaims, relating to REC Software's claim against Microsoft for infringement of U.S. Patent No. 5,854,936 ('936 Patent).

In the parties' Joint Claim Construction and Prehearing Statement (Dkt. 112), REC Software asserted that Microsoft directly and indirectly infringed claims 1, 2, 3, 4, 5, 6, 8, 9, 10, 13, 15, 17, 18, and 22 of the '936 Patent. REC Software has now narrowed its asserted claims to claims 1 and 8 of the '936 Patent. Accordingly, REC Software hereby stipulates and agrees to dismiss with prejudice all claims, causes of action, assertions or contentions that any and all Microsoft products infringe claims 2, 4, 5, 6, 9, 10, 15, 17, 18 or 22 of the '936 Patent. Microsoft, in turn, hereby stipulates and agrees to dismiss without prejudice all counterclaims of

1 noninfringement and invalidity relating to claims 2, 4, 5, 6, 9, 10, 15, 17, 18, and 22 of the '936
2 Patent.

3 Pursuant to the foregoing stipulation of the parties, only REC's claims for direct and
4 indirect infringement of claims 1 and 8 of the '936 Patent, and Microsoft's corresponding
5 counterclaims and affirmative defenses, remain pending for adjudication before the Court. As a
6 consequence, the necessity of the Court to rule on certain pending claim constructions is
7 rendered moot, as is Microsoft's pending Motion for Partial Summary Judgment that Claims 9-
8 22 Are Not Entitled to the Parent Application's Filing Date. Specifically, the parties hereby
9 stipulate and agree that claim construction by the Court on the following terms is no longer
10 necessary:

- 11 • "a response that includes module information associated with said discrete module"
12 (claim 9)
- 13 • "associator that forms an association based on said response" (claim 9)
- 14 • "means for searching for said discrete module in a storage area" (claim 10)
- 15 • "translation means for managing a translation of said discrete module from one form to
16 another" (claim 15)
- 17 • "means for managing a transfer of said discrete module to said first program" (claim 17)
- 18 • "comparator means for comparing said request with said module information" (claim 18)

19 In addition, currently pending before the Court is Microsoft's Motion for Partial
20 Summary Judgment That Claims 9-22 Are Not Entitled to the Parent Application's Filing Date
21 (Dkt. 117). Given the above stipulations, the motion is rendered moot, and a ruling by the Court
22 is no longer required.

23 Pursuant to the foregoing stipulations, the parties agree to entry of the proposed Order of
24 Dismissal filed herewith.

1 DATED this 23rd day of April, 2012.

2 BYRNES KELLER CROMWELL LLP

FISH & RICHARDSON P.C.

3
4 By /s/ Jofrey M. McWilliam

Bradley S. Keller, WSBA # 10665

Jofrey M. McWilliam, WSBA # 28441

1000 Second Avenue, 38th Floor

Seattle, Washington 98104

Telephone: (206) 622-2000

Facsimile: (206) 622-2522

bkeller@byrneskeller.com

jmcwilliam@byrneskeller.com

9 DOVEL & LUNER LLP

Gregory Scott Dovel (*pro hac vice*)

Richard E. Lyon (*pro hac vice*)

201 Santa Monica Blvd., Suite 600

Santa Monica, CA 90401

Telephone: (310) 656-7066

Fax: (310) 656-7069

Email: greg@dovellaw.com

rick@dovellaw.com

Attorneys for Plaintiff

REC Software USA, Inc.

By: /s/ Benjamin C. Elacqua

Benjamin C. Elacqua (*pro hac vice*)

1 Houston Center

1221 McKinney Street, Suite 2800

Houston, TX 77010

Telephone: (713) 654-5300

Facsimile: (713) 652-0109

Email: elacqua@fr.com

Arthur W. Harrigan, Jr. (WSBA No. 1751)

arthurh@dhlt.com

Christopher Wion (WSBA No. 33207)

chrisw@dhlt.com

Shane P. Cramer (WSBA No. 35099)

shanec@dhlt.com

DANIELSON HARRIGAN LEYH &
TOLLEFSON

999 Third Avenue, Suite 4400

Seattle, Washington 98104

Telephone: (206) 623-1700

Facsimile: (206) 623-8717

Counsel for Defendants Microsoft
Corporation, SAP America, Inc., and SAP
AG.

CERTIFICATE OF SERVICE

The undersigned attorney certifies that on the 23rd day of April, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Mr. Gregory Scott Dovel
Mr. Richard E. Lyon
Dovel & Luner LLP
Email: greg@dovellaw.com
rick@dovellaw.com
Counsel for Plaintiff REC Software USA, Inc.

Mr. Jeremy W. Dutra
Squire, Sanders & Dempsey
Email: jeremydutra@ssd.com
Counsel for Defendant Bamboo Solutions

Ms. Katherine Kelly Lutton
Ms. Kelly Catherine Hunsaker
Mr. Scott Penner
Fish & Richardson PC
Redwood City, CA 94063
Email: lutton@fr.com
hunsaker@fr.com
penner@fr.com
Counsel for Defendant Microsoft Corporation

Arthur W. Harrigan
Christopher Wion
Shane P. Cramer
Danielson Harrigan Leyh & Tollefson LLP
Email: aharrigan@dhlt.com
chrisw@dhlt.com
scramer@dhlt.com
Counsel for Defendant Microsoft Corporation, SAP
America, Inc., and SAP AG

Mr. Ruffin B. Cordell
Mr. Joshua Pond
Fish & Richardson PC
Washington, DC 20005
Email: cordell@fr.com
pond@fr.com
Counsel for Defendant Microsoft Corporation

Mr. Benjamin Elacqua
Mr. Brian G. Strand
Fish & Richardson PC
Houston, TX 77010
Email: elacqua@fr.com
strand@fr.com
Counsel for Defendant Microsoft Corporation

Ms. Isabella Fu
Microsoft Corporation
Email: Isabella.fu@microsoft.com
Counsel for Microsoft Corporation

/s/ Jofrey M. McWilliam
Jofrey M. McWilliam, WSBA #28441
Byrnes Keller Cromwell LLP
1000 Second Avenue, 38th Floor
Seattle, WA 98104
Telephone: (206) 622-2000
Facsimile: (206) 622-2522
jmcwilliam@byrneskeller.com